

AGREEMENT

Made the 5 day of February, 2002, by and between Kelemewa, Inc., t/a Bar Nun (hereinafter "Applicant"), and Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Holly Twyford, Kristin Carman, Kelly Devers, Alastair Fitzpayne, Jill Morningstar, G. Ronald Renchard, Todd A. Butler, Wade A. Fisher, Louis Goodson, Margaret E. Greene, Carolee Inskeep, Steve Inskeep, Joe R. Neel (hereinafter "Protestants").

WHEREAS, Applicant filed with the District of Columbia Alcoholic Beverage Control (ABC) Board (hereinafter "the Board") a request to expand its licensed premises, to increase its seating capacity and to extend its hours of operation of its Retailer's License Class CN premises for 1326 U Street, N.W.; and,

WHEREAS, the Board deemed the proposed changes to constitute a "substantial change" requiring public notice; and

WHEREAS, Protestants lodged with the Board objections to said changes (Case No 33112-01/046P); and,

WHEREAS, the parties subsequently have negotiated in an effort to resolve the issues raised by Protestants' objections to the proposed changes to the licensed establishment and extended hours of operation; and,

WHEREAS, the parties desire to enter into a voluntary agreement, pursuant to 23 D.C.M.R. Section 1513, commemorating their several agreements;

NOW, THEREFORE, the parties agree as follows:

1. Applicant may expand its licensed premises to include space of approximately 1000 square feet adjoining current space on its upper floor. Said expanded space will be used for lounge type purposes only, to include seating and an additional bar. No additional dance floor

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will be included in the "newly expanded space", and no additional dance floor will be created in the "old space." Thus, two (2) dance floors, one (1) on each floor, will exist. The capacity for the newly configured licensed premises will not exceed 150, including the "old" and "newly expanded" spaces.

2. Applicant may extend its hours of operation until 4:00 a.m. on Friday and Saturday evenings, and on the 4th of July, Labor Day and Memorial Day holidays. Alcoholic beverage sales and service will conform to the hours mandated by D.C. Code §25-723 (to wit, alcoholic beverage service will cease at 2:00 a.m. Sunday through Thursday evenings, and at 3:00 a.m. on Friday and Saturday evenings).

3. Applicant will contract with nearby commercial parking establishments (presently including U Street Parking, Inc. 1941 12th Street, N.W. and Urban Parking Venture at the Reeves Center) to provide validated parking for its patrons at a discount. Applicant will provide copies of its agreements with parking establishments and all successor agreements. Applicant commits to charging its patrons not more than 60% of its costs for validated parking. Applicant commits to contract for not fewer than 50 parking spaces. Applicant will use its best efforts to promote off-residential street parking by its patrons through signage, table tents, notices within its advertisements, and by word of mouth.

4. Applicant will post signs to encourage its patrons not to disturb the residential-neighborhood adjoining the 14th and U Street corridors, and will make public announcements to the same effect nearing its closing hours.

5. Applicant will increase the frequency of its trash/dumpster pickup by a commercial hauler to no fewer than three (3) times per week, and Mondays will be a trash pick-

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up day. Applicant will also strictly adhere to required and/or voluntary recycling of bottles and cans. Applicant will police the immediate environs of its premises daily and make its best efforts to keep said area clean of trash and debris.

6. Applicant will install flood lighting on the rear of its building to enhance security in the alley abutting its premises. After 10:00 p.m. until closing, on evenings when the business is operating, Applicant's security personnel will monitor the alley, and will discourage loitering when practicable. Applicant will report any suspected criminal activity observed in the alley immediately to the Metropolitan Police Department.

7. Applicant will pick up trash and debris from the full alley behind its premises, and the street and sidewalk of the 1300 block of Wallach Place, N.W., each Saturday and Sunday morning before 9:00 a.m.

8. The terms of paragraphs numbered 3 through 7 shall become effective upon issuance to applicant of a Certificate of Occupancy increasing the capacity of the establishment not to exceed 150 persons.

9. Applicant and the designated representative protestants, whose signatures are affixed hereunto, with advance notice to the parties at least quarterly, will meet to discuss issues of common concern. In the event of complaints of excessive noise coming from applicant's use of the expanded portion of the premises, the parties agree to revisit this issue for further negotiations. Excessive noise will be determined by comparing any complained of noise levels against a noise analysis to be paid for and completed by the Applicant, under supervision of the protestants, prior to the opening or use of the newly expanded space.

10. Applicant acknowledges that failure to adhere to the restrictions recited in paragraphs 1 through 8, inclusive, above, will constitute grounds for the designated representative protestants, whose signatures are affixed hereunto, to petition the Board for issuance of an Order to Show Cause, pursuant to 23 D.C.M.R. §1513.5, to gain Applicant's compliance with the terms of this Agreement. Prior to so petitioning, however, the designated representative protestants shall notify Applicant of any perceived violations and afford Applicant a minimum of fourteen (14) calendar days in which to address or rectify the perceived violation.

11. The parties request that the text of the instant Agreement be incorporated in an order of the Board granting Applicant's changes to the licensed establishment, conditioned upon Applicant's compliance with the terms hereof.

12. In consideration of, and reliance upon, the foregoing commitments by Applicant, Protestants request hereby that their protests of Applicant's changes to the licensed establishment and hours of operation of the subject Retailer's License Class CN be deemed withdrawn.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the
year and day first above written.

PROTESTANTS, the Wallach Place Association:

Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Holly Twyford, Kristin Carman, Kelly
Devers, Alastair Fitzpayne, Jill Morningstar, G. Ronald Renchard, Todd A. Butler, Wade A.
Fisher, Louis Goodson, Margaret E. Greene, Carolee Inskeep, Steve Inskeep, Joe R. Neel

**THROUGH THEIR DESIGNATED
REPRESENTATIVE PROTESTANTS:**

Aileen Johnson
Aileen Johnson

Sarah Goldfrank
Sarah Goldfrank

Wade A. Fisher
Wade A. Fisher

KELEMEWA, INC.

By: Derege Hailegorghis
Derege Hailegorghis
President

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O'BRIEN & LONG

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OF COUNSEL
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FAX TRANSMISSION

To: Laura Byrd

From: _____

Date: 2/8/02

Fax#: 727-9685

Client Matter: Bar Nun

Pages (including this coversheet): 7

- ☐ STEPHEN J. O'BRIEN
- ☐ STUART J. LONG
- ☒ MICHAEL D. FONSECA
- ☐ BARBARA LEE SMITH

COMMENTS:

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#33112

BEFORE THE ALCOHOLIC BEVERAGE CONTROL BOARD
FOR THE DISTRICT OF COLUMBIA 2 47 PM '97

IN RE:

The application of KELEMEWA CORPORATION
t/a BAR NONE
at premises 1326 U Street, N.W.
For Retailer Class "CN" License

RECEIVED
ALCOHOLIC BEVERAGE
CONTROL DIVISION

CASE NO.

VOLUNTARY AGREEMENT

THIS MATTER, having come before the Board upon the application of KELEMEWA CORPORATION ("Licensee") for the issuance to it of the Retailer Class "CN" License at the premises located at 1326 U Street, N.W. cited above (hereafter "Premises") and the application having been protested by JOHN E. MATTHEWS and JARED W. JOHNSON ("Protestants"), residents of the delineated area;

The Licensee and Protestants (hereafter, "Parties") have negotiated their differences, and the Parties are stipulating as follows in consideration of said protest being withdrawn:

1. The Licensee will install and maintain soundproofing and noise abatement materials at the Premises, sufficient to assure that music and other sound from the Premises cannot be heard inside the residence located at 1329 Wallach Place, N.W.
2. The Licensee will not permit employees or patrons of the Licensee's establishment to congregate or loiter outside in the rear of the Premises, or otherwise use the rear doors of the Premises as a means of ingress or egress for purposes other than emergencies or the removal of trash or other similar business purposes (subject to the limitations of paragraph 3).

The Licensee agrees that activities involving ingress or egress from the rear of the Premises will be conducted in a manner so as to minimize noise in the alley.

3. The Licensee will not permit parking or deliveries that obstruct the free flow of traffic in the alley-way at the rear of the Premises.


4. The Licensee will keep the exterior of the Premises in good repair and maintain regular trash pickup service with a commercial trash removal company. The Licensee will assure that trash is kept in appropriate containers at all times and is not permitted to migrate by wind or other means to the alley or other properties located adjacent to the alley. In the event trash from the Licensee's establishment migrates to the alley or neighboring properties, the Licensee accepts responsibility for the clean up and disposal of such trash.

5. The Licensee will not permit nude dancing or other sexually-oriented entertainment.


DATED: January 30, 1997

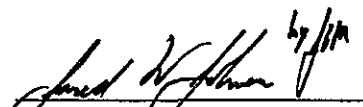
LICENSEE

KELEMEWA CORPORATION

By: 
PRESIDENT

PROTESTANTS:


JOHN E. MATTHEWS


JARED W. JOHNSON

APPROVED:

**BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:

Kelemewa, Inc.
t/a Bar Nun

Application for a Retailer's Class
CN License (substantial change)
at premises
1326 U Street, N.W.
Washington, D.C. 20009

Case no. 33112-01/046P

2002-79

Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Holly Twyford, Kristin Carman, Kelly Devers, Alastair Fitzpayne, Jill Morningstar, G. Ronald Renchard, Todd A. Butler, Wade A. Fisher, Louis Goodson, Margaret E. Greene, Carolee Inskeep, Steve Inskeep, and Joe R. Neel, Protestants

Derege Hailegorghis, President, on behalf of Kelemewa, Inc.

BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Laurie Collins, Member
Ellen Oppenheimer, Esquire, Member
Audrey E. Thompson, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST

The request for a substantial change to increase operating hours, capacity and the expansion of the licensed premises was protested and came before the Board on March 30, 2001, in accordance with D.C. Official Code Section 25-601 (2000 Edition). Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Holly Twyford, Kristin Carman, Kelly Devers, Alastair Fitzpayne, Jill Morningstar, G. Ronald Renchard, Todd A. Butler, Wade A. Fisher, Louis Goodson, Margaret E. Greene, Carolee Inskeep, Steve Inskeep, and Joe R. Neel filed opposition in a timely manner. The protestants designated Aileen Johnson, Sarah Goldfrank and Wade A. Fisher as their representatives in this matter.

The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated February 5, 2002, the protestants have agreed to withdraw the opposition, provided, however, the Board's approval of the pending

Kelemewa, Inc.

t/a Bar Nun

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application is conditioned upon the licensee's continuing compliance with the terms of the agreement. However, the Board interprets the first provision in the agreement as a statement from the protestants that they do not object to the expansion of the licensed premises under the set conditions as approved by the Board.

Accordingly, it is this 24th day of April 2002, **ORDERED** that:

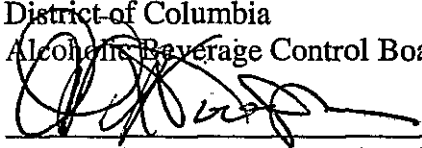
1. The opposition of Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Holly Twyford, Kristin Carman, Kelly Devers, Alastair Fitzpayne, Jill Morningstar, G. Ronald Renchard, Todd A. Butler, Wade A. Fisher, Louis Goodson, Margaret E. Greene, Carolee Inskeep, Steve Inskeep, and Joe R. Neel filed opposition in a timely manner. The protestants designated Aileen Johnson, Sarah Goldfrank and Wade A. Fisher is **WITHDRAWN**;

2. The request to increase the hours of operation, the capacity and the expansion of the licensed for Kelemewa, Inc. t/a Bar Nun, holder of a retailer's class CN license located at 1326 U Street, N.W., Washington, D.C., is **GRANTED**;


3. The above-referenced agreement between the parties, is **INCORPORATED** as part of this Order; and

4. Copies of this Order shall be sent to the Protestants and the Applicant.

District of Columbia
Alcoholic Beverage Control Board


Roderic L. Woodson, Esquire, Chair


Vera Abbott, Member


Charles Burger, Member


Laurie Collins, Member


Judy A. Moy, Member